

HOUSE BILL No. 6427

September 24, 2002, Introduced by Rep. DeWeese and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 8302, 8303, 8304, 8305, 8306, 8316, and 8333
(MCL 324.8302, 324.8303, 324.8304, 324.8305, 324.8306, 324.8316,
and 324.8333), sections 8302, 8303, 8304, 8305, 8306, and 8333 as
amended by 2002 PA 418, and by adding sections 8315a, 8315b,
8316a, 8316b, and 8321a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8302. (1) "ABUTTING PROPERTY" MEANS ANY PROPERTY THAT
2 HAS A BOUNDARY OR BOUNDARY POINT IN COMMON WITH THE PROPERTY ON
3 WHICH A PESTICIDE IS TO BE APPLIED.

4 (2) ~~—(1)—~~ "Active ingredient" means an ingredient that will
5 prevent, destroy, repel, or mitigate pests, or that will act as a
6 plant regulator, defoliant, or desiccant or otherwise alter the
7 behavior of plants or products.

(3) ~~-(2)-~~ "Activity plan" means a plan for the mitigation of groundwater contamination at a specific location, including a time frame for implementation.

(4) ~~-(3)-~~ "Adulterated", ~~applies to a pesticide if its~~ IN REFERENCE TO A PESTICIDE, MEANS THAT THE PESTICIDE'S strength or purity is less than, or significantly greater than, the professed standard or quality as expressed on its labeling or under which it is sold; ~~if~~ THAT a substance was substituted wholly or in part for a pesticide; or ~~if~~ THAT a valuable constituent of the pesticide was wholly or in part abstracted.

(5) "AGENCY" MEANS ANY STATE AGENCY; LOCAL UNIT OF GOVERNMENT; PUBLIC AUTHORITY; INSTITUTION OF HIGHER EDUCATION; RAILROAD; OR TELEGRAPH, TELEPHONE, PIPELINE, GAS, OR ELECTRIC CORPORATION THAT APPLIES PESTICIDES.

(6) ~~-(4)-~~ "Agricultural commodity" means a plant or part of a plant, or an animal or animal product, produced primarily for sale, consumption, propagation, or other use by human beings or animals.

(7) ~~-(5)-~~ "Animal" means all vertebrate and invertebrate species, including, but not limited to, human beings and other mammals, birds, fish, and shellfish.

(8) ~~-(6)-~~ "Antimicrobial pesticide" means a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbial organisms, as defined under ~~the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y~~ FIFRA.

1 (9) ~~-(7)-~~ "Application season" means a time period of
2 pesticide application, consistent with the category of applica-
3 tion, within a calendar year.

4 (10) ~~-(8)-~~ "Aquifer" means a geologic formation, a group of
5 formations, or a part of a formation capable of yielding a sig-
6 nificant amount of groundwater to wells or springs.

7 (11) ~~-(9)-~~ "Aquifer sensitivity" means a hydrogeologic func-
8 tion representing the inherent abilities of materials surrounding
9 the aquifer to attenuate the movement of pesticides into that
10 aquifer.

11 (12) ~~-(10)-~~ "Avicide" means a pesticide intended for pre-
12 venting, destroying, repelling, or mitigating pest birds.

13 (13) ~~-(11)-~~ "Building manager" means the person who is des-
14 ignated as being responsible for the building's pest management
15 program and to whom SHALL BE MADE any reporting and notification
16 ~~shall be made~~ pursuant to this part or rules promulgated under
17 this part.

18 (14) ~~-(12)-~~ "Certified applicator" means an individual who
19 is authorized under this part to use and supervise the use of a
20 restricted use pesticide.

21 (15) "CHILD CARE CENTER" MEANS THAT TERM AS DEFINED IN
22 SECTION 1 OF 1973 PA 116, MCL 722.111.

23 (16) ~~-(13)-~~ "Commercial applicator" means a person who is
24 required to be a registered or certified applicator under this
25 part, or who holds himself or herself out to the public as being
26 in the business of applying pesticides. A commercial applicator

1 does not include a person using a pesticide for a private
2 agricultural purpose.

3 (17) ~~-(14)-~~ "Commercial building" means any portion of a
4 building that is not a private residence where a business is
5 located and that is frequented by the public.

6 (18) "COMMERCIAL LAWN APPLICATION" MEANS LAWN APPLICATION ON
7 PROPERTY THAT IS NOT OWNED BY OR LEASED TO THE INDIVIDUAL MAKING
8 THE LAWN APPLICATION.

9 (19) ~~-(15)-~~ "Confirmed contaminant" means a contaminant that
10 has been detected in at least 2 groundwater samples collected
11 from the same groundwater sampling point at an interval of
12 greater than 14 days.

13 (20) ~~-(16)-~~ "Contaminant" means any pesticide originated
14 chemical, radionuclide, ion, synthetic organic compound, microor-
15 ganism, or waste that does not occur naturally in groundwater or
16 that naturally occurs at a lower concentration than detected.

17 (21) ~~-(17)-~~ "Contamination" means the direct or indirect
18 introduction into groundwater of any contaminant caused in whole
19 or in part by human activity.

20 Sec. 8303. (1) "DAY CARE FACILITY" MEANS A CHILD CARE
21 CENTER, FAMILY DAY CARE HOME, OR GROUP DAY CARE HOME AS THOSE
22 TERMS ARE DEFINED IN SECTION 1 OF 1973 PA 116, MCL 722.111.

23 (2) ~~-(1)-~~ "Defoliant" means a substance or mixture of sub-
24 stances intended for causing the leaves or foliage to drop from a
25 plant, with or without causing abscission.

26 (3) ~~-(2)-~~ "Department" means the department of agriculture.

1 (4) ~~—(3)—~~ "Desiccant" means a substance or mixture of
2 substances intended for artificially accelerating the drying of
3 plant tissue.

4 (5) ~~—(4)—~~ "Device" means an instrument or contrivance, other
5 than a firearm, which is intended for trapping, destroying,
6 repelling, or mitigating a pest; but does not include equipment
7 used for the application of pesticides when sold separately.

8 (6) ~~—(5)—~~ "Direct supervision" means directing the applica-
9 tion of a pesticide while being physically present during the
10 application. However, direct supervision by a private agricul-
11 tural applicator means either of the following:

12 (a) The private agricultural applicator is in the same field
13 or location directing the application of a restricted use pesti-
14 cide by an uncertified applicator.

15 (b) The private agricultural applicator supervises the
16 uncertified applicator and is physically present during the ini-
17 tial restricted use pesticide application on an agricultural com-
18 modity or agricultural structure, including calibration, mixing,
19 application, operator safety, and disposal.

20 (7) ~~—(6)—~~ "Director" means the director of the department of
21 agriculture or his or her authorized representative.

22 (8) ~~—(7)—~~ "Distribute" means to offer for sale, hold for
23 sale, sell, barter, ship, or deliver pesticides in this state.

24 (9) ~~—(8)—~~ "Envelope monitoring" means monitoring of ground-
25 water in areas adjacent to properties where groundwater is con-
26 taminated to determine the concentration and spatial distribution
27 of the contaminant in the aquifer.

1 (10) ~~—(9)—~~ "Environment" includes water, air, land, and all
2 plants and human beings and other animals living therein, and the
3 interrelationships that exist among them.

4 (11) ~~—(10)—~~ "EPA" means the United States environmental pro-
5 tection agency.

6 (12) ~~—(11)—~~ "FIFRA" means the federal insecticide, fungi-
7 cide, and rodenticide act, chapter 125, 86 Stat. 973, 7
8 U.S.C. 136 to 136i, ~~—and—~~ 136j to 136r, and 136s to 136y.

9 (13) ~~—(12)—~~ "Fungi" means all nonchlorophyll bearing thallo-
10 phytes; that is, all nonchlorophyll bearing plants of a lower
11 order than mosses and liverworts, as for example rusts, smuts,
12 mildews, molds, yeasts, and bacteria, except those in or on other
13 animals, and except those in or on processed foods, beverages, or
14 pharmaceuticals.

15 (14) ~~—(13)—~~ "General use pesticide" means a pesticide that
16 is not a restricted use pesticide.

17 (15) ~~—(14)—~~ "Groundwater" means underground water within the
18 zone of saturation.

19 (16) ~~—(15)—~~ "Groundwater protection rule" means a rule
20 promulgated under this part that defines a minimum operational
21 standard for structures, activities, and procedures that may have
22 or may contribute to the contamination of groundwater and that
23 defines the scope of a groundwater protection rule, the region of
24 implementation of a groundwater protection rule, and implementa-
25 tion period for those rules. As used in this subsection:

26 (a) Structures, activities, and procedures" includes, but is
27 not limited to, mixing, loading, and rinse pads, application

1 equipment, application timing, application rates, crop rotation,
2 and pest control thresholds.

3 (b) The scope of a groundwater protection rule" may define a
4 particular pesticide, structure, activity, or procedure or may
5 define pesticides containing specific ingredients.

6 (c) The region of implementation of a groundwater protection
7 rule" may include specific soil types or aquifer sensitivity
8 regions or any other geographic boundary.

9 (17) ~~-(16)-~~ "Groundwater resource protection level" means a
10 maximum contaminant level, health advisory level, or, if the EPA
11 has not established a maximum contaminant level or a health
12 advisory level, a level established by the director of public
13 health using risk assessment protocol established by rule under
14 this part.

15 (18) ~~-(17)-~~ "Groundwater resource response level" means 20%
16 of the groundwater resource protection level. In cases where 20%
17 of the groundwater resource protection level is less than the
18 method detection limit, the method detection limit shall serve as
19 the groundwater resource response level.

20 Sec. 8304. (1) "HEALTH CARE FACILITY" MEANS A FACILITY
21 WHICH IS NOT A PRIVATE HOME AND AT WHICH PEOPLE MAY STAY 1 OR
22 MORE NIGHTS AND RECEIVE MEDICAL CARE, SUCH AS A HOSPITAL OR NURS-
23 ING HOME.

24 (2) ~~-(1)-~~ "Inert ingredient" means an ingredient that is not
25 active.

26 (3) ~~-(2)-~~ "Ingredient statement" means:

1 (a) A statement of the name and percentage of each active
2 ingredient together with the total percentage of the inert
3 ingredients in the pesticide.

4 (b) When the pesticide contains arsenic in any form, the
5 ingredient statement shall include percentages of total and water
6 soluble arsenic, each calculated as elemental arsenic.

7 (4) ~~-(3)-~~ "Insect" means any of the numerous small inverte-
8 brate animals generally having the body more or less obviously
9 segmented, for the most part belonging to the class insecta, com-
10 prising 6-legged, usually winged forms, as for example beetles,
11 bugs, bees, and flies, and to other allied classes or arthropods
12 whose members are wingless and usually have more than 6 legs, as
13 for example spiders, mites, ticks, centipedes, and wood lice.

14 (5) ~~-(4)-~~ "Insecticide" means a pesticide intended for pre-
15 venting, destroying, repelling, or mitigating an insect.

16 (6) "INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC OR PRI-
17 VATE INSTITUTION IN THIS STATE WHICH OFFERS A DEGREE OR COURSE OF
18 STUDY BEYOND THE TWELFTH GRADE.

19 (7) ~~-(5)-~~ "Integrated pest management" means a pest manage-
20 ment system that uses all suitable techniques in a total manage-
21 ment system to prevent pests from reaching unacceptable levels or
22 to reduce existing pest populations to acceptable levels.

23 (8) ~~-(6)-~~ "Label" means the written, printed, or graphic
24 matter on or attached to the pesticide or device or any of its
25 containers or wrappers.

26 (9) ~~-(7)-~~ "Labeling" means the label and all other written,
27 printed, or graphic matter accompanying the pesticide or device,

1 or to which reference is made on the label or in literature
2 accompanying the pesticide or device, and all applicable modifi-
3 cations or supplements to official publications of the EPA, the
4 United States departments of agriculture and interior, the United
5 States departments of education and health and human services,
6 state experiment stations, state agricultural colleges, and other
7 similar federal or state institutions or agencies authorized by
8 law to conduct research in the field of pesticides.

9 (10) "LAWN APPLICATION" MEANS THE APPLICATION OF GENERAL USE
10 PESTICIDES TO GROUND, TREES, OR SHRUBS BUT DOES NOT INCLUDE ANY
11 OF THE FOLLOWING:

12 (A) THE APPLICATION OF PESTICIDES FOR THE PURPOSE OF PRODUC-
13 ING AN AGRICULTURAL COMMODITY.

14 (B) THE APPLICATION OF PESTICIDES AROUND OR NEAR THE FOUNDA-
15 TION OF A BUILDING FOR THE PURPOSE OF INDOOR PEST CONTROL.

16 (C) THE APPLICATION OF PESTICIDES BY OR ON BEHALF OF AGEN-
17 CIES EXCEPT THAT AGENCIES SHALL BE SUBJECT TO VISUAL NOTIFICATION
18 REQUIREMENTS APPLICABLE TO COMMERCIAL LAWN APPLICATIONS UNDER
19 SECTION 8315A(7) IF THE APPLICATION IS WITHIN 100 FEET OF A
20 DWELLING, PUBLIC BUILDING, OR PUBLIC PARK.

21 (D) THE APPLICATION OF PESTICIDES ON GOLF COURSES OR TURF
22 FARMS.

23 (11) ~~-(8)-~~ "Maximum contaminant level" means that term as it
24 is defined in title XIV of the public health service act, chapter
25 373, 88 Stat. 1660, 42 U.S.C. 300f to 300j-3, 300j-4 to 300j-9,
26 and 300j-11 to 300j-25, and regulations promulgated under that
27 act.

1 (12) ~~-(9)-~~ "Method detection limit" means the minimum
2 concentration of a substance that can be measured and reported
3 with 99% confidence that the analyte concentration is greater
4 than 0 and is determined from analysis of a sample in a given
5 matrix that contains the analyte.

6 (13) ~~-(10)-~~ "Minor use" means the use of a pesticide on a
7 crop, animal, or site where any of the following exist:

8 (a) The total United States acreage for the crop or site is
9 less than 300,000 acres.

10 (b) The acreage expected to be treated nationally as a
11 result of that use is less than 300,000 acres annually.

12 (c) The use does not provide sufficient economic incentive
13 to support the initial registration or continuing registration of
14 the use.

15 (14) ~~-(11)-~~ "Misbranded", ~~applies to any~~ IN REFERENCE TO A
16 PESTICIDE OR DEVICE, MEANS THAT THE pesticide or device ~~if it~~
17 is an imitation of or is offered for sale under the name of
18 another pesticide, or ~~if its~~ HAS labeling THAT does not comply
19 with labeling requirements of this part, the rules promulgated
20 under this part, FIFRA, or regulations promulgated under FIFRA.

21 (15) ~~-(12)-~~ "Molluscicide" means a pesticide intended for
22 preventing, destroying, repelling, or mitigating a mollusk.

23 (16) "MULTIPLE FAMILY DWELLING" MEANS A DWELLING WHICH IS OR
24 IS TO BE OCCUPIED AS THE RESIDENCE OR HOME FOR THE MEMBERS OF 3
25 OR MORE HOUSEHOLDS LIVING INDEPENDENTLY OF EACH OTHER.

26 Sec. 8305. (1) "Nematode" means invertebrate animals of the
27 phylum nemathelminthes and class nematoda, which are unsegmented

1 roundworms with elongated, fusiform, or sac-like bodies covered
2 with cuticle that inhabit soil, water, plants, or plant parts. A
3 nematode may also be called a nema or eelworm.

4 (2) "NONCOMMERCIAL LAWN APPLICATION" MEANS LAWN APPLICATION
5 ON PROPERTY OWNED BY OR LEASED TO THE INDIVIDUAL MAKING THE LAWN
6 APPLICATION.

7 (3) "1- OR 2-FAMILY DWELLING" IS ANY STRUCTURE OR PORTION
8 THEREOF WHICH IS OR IS TO BE OCCUPIED IN WHOLE OR IN PART AS THE
9 RESIDENCE OR HOME FOR 1 OR 2 FAMILIES.

10 (4) ~~-(2)-~~ "Person" means an individual, partnership, corpo-
11 ration, association, governmental entity, or other legal entity.

12 (5) ~~-(3)-~~ "Pest" means an insect, rodent, nematode, fungus,
13 weed, and other forms of terrestrial or aquatic plant or animal
14 life or virus, ~~bacteria,~~ or other microorganism, or any other
15 organism that the director declares to be a pest under section
16 8322, except viruses, fungi, ~~bacteria,~~ nematodes, or other
17 microorganisms in or on living animals.

18 (6) ~~-(4)-~~ "Pesticide" means a substance or mixture of sub-
19 stances intended for preventing, destroying, repelling, or miti-
20 gating pests or intended for use as a plant regulator, defoliant,
21 or desiccant. Pesticide does not include liquid chemical steril-
22 ant products, including any sterilant or subordinate disinfectant
23 claims on such products, for use on a critical or semi-critical
24 device, as defined in section 201 of the federal food, drug, and
25 cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 321. As used
26 in this subsection:

1 (a) "Critical device" includes any device that is introduced
2 directly into the human body, either into or in contact with the
3 bloodstream or normally sterile areas of the body.

4 (b) "Semi-critical device" includes any device that contacts
5 intact mucous membranes but that does not ordinarily penetrate
6 the blood barrier or otherwise enter normally sterile areas of
7 the body.

8 (7) ~~-(5)-~~ "Pesticide registration renewal" means the regis-
9 tration of any pesticide that was previously registered by the
10 department.

11 (8) ~~-(6)-~~ "Place of business" means a location that is
12 staffed by at least 1 person who independently, without supervi-
13 sion, sells or uses pesticides within this state or where a
14 person exercises the right to control others in the sale or use
15 of pesticides within this state.

16 (9) ~~-(7)-~~ "Plant regulator" means a substance or mixture of
17 substances intended through physiological action for accelerating
18 or retarding the rate of growth or rate of maturation or for oth-
19 erwise altering the behavior of plants or the produce of plants.
20 Plant regulator does not include substances to the extent that
21 they are intended as plant nutrients, trace elements, nutritional
22 chemicals, plant inoculants, and soil amendments.

23 (10) ~~-(8)-~~ "Private agricultural applicator" means a certi-
24 fied applicator who uses or supervises the use of a restricted
25 use pesticide for a private agricultural purpose.

1 (11) ~~-(9)-~~ "Private agricultural purpose" means the
2 application of a pesticide for the production of an agricultural
3 commodity on either of the following:

4 (a) Property owned or rented by the person applying the pes-
5 ticide or by his or her employer.

6 (b) Property of another person if applied without compensa-
7 tion, other than trading of personal services between producers
8 of agricultural commodities.

9 (12) ~~-(10)-~~ "Protect health and environment" means
10 ~~protection~~ TO PROTECT against any unreasonable adverse effects
11 on the environment.

12 (13) ~~-(11)-~~ "Public building" means a building that is owned
13 or operated by a federal, state, or local government, including
14 public universities.

15 Sec. 8306. (1) "Registered applicator" means an individual
16 who is authorized to apply general use pesticides for a private
17 or commercial purpose as provided in this part and in the rules
18 promulgated under this part.

19 (2) "Ready-to-use pesticide" means a pesticide that is
20 applied directly from its original container consistent with
21 label directions, such as an aerosol insecticide or rodenticide
22 bait pack that does not require mixing or loading prior to
23 application.

24 (3) "Registrant" means a person who is required to register
25 a pesticide pursuant to this part.

26 (4) "Restricted use pesticide" means a pesticide classified
27 for restricted use by the EPA or the director.

1 (5) "Restricted use pesticide dealer" means a person engaged
2 in distributing, selling, or offering for sale restricted use
3 pesticides to the ultimate user.

4 (6) "Rodenticide" means a pesticide intended for preventing,
5 destroying, repelling, or mitigating rodents.

6 (7) "School" means public and private schools, grades kin-
7 dergarten through the twelfth grade BUT DOES NOT INCLUDE A HOME
8 SCHOOL.

9 (8) "SCHOOL FACILITY" MEANS ANY SCHOOL BUILDING USED FOR
10 INSTRUCTIONAL PURPOSES, GROUNDS SURROUNDING SUCH A BUILDING,
11 SCHOOL GROUNDS USED FOR PLAYGROUNDS, ATHLETICS, AND OTHER
12 INSTRUCTIONAL PURPOSES, AND ANY ADMINISTRATIVE OFFICES.

13 (9) "SCHOOL YEAR" MEANS THE PERIOD COMMENCING ON THE FIRST
14 DAY OF REGULAR INSTRUCTION AND ENDING ON THE LAST DAY OF
15 SESSION.

16 (10) ~~-(8)-~~ "Supervise" means directing the application of a
17 pesticide with or without being physically present during the
18 application.

19 (11) ~~-(9)-~~ "Unreasonable adverse effect on the environment"
20 means any unreasonable risk to human beings or the environment,
21 taking into account the economic, social, and environmental costs
22 and benefits of the use of a pesticide.

23 (12) ~~-(10)-~~ "Use of a pesticide" means the loading, mixing,
24 applying, storing, transporting, and disposing of a pesticide.

25 (13) ~~-(11)-~~ "Vendor" means a person who sells or distributes
26 pesticides.

1 (14) ~~—(12)—~~ "Violates this part" or "violation of this part"
2 means a violation of this part, a rule promulgated under this
3 part, or an order issued under this part.

4 (15) ~~—(13)—~~ "Weed" means a plant which grows where it is not
5 wanted.

6 SEC. 8315A. (1) A RETAIL ESTABLISHMENT THAT SELLS GENERAL
7 USE PESTICIDES FOR LAWN APPLICATION SHALL DISPLAY A SIGN MEETING
8 STANDARDS ESTABLISHED BY THE DIRECTOR UNDER SECTION 8315B(1).
9 THE SIGN SHALL BE DISPLAYED IN A CONSPICUOUS PLACE AS CLOSE AS
10 POSSIBLE TO THE PLACE WHERE THE PESTICIDES ARE DISPLAYED.

11 (2) AT LEAST 48 HOURS BEFORE ANY COMMERCIAL LAWN APPLICATION
12 OF A PESTICIDE, THE PERSON MAKING THE APPLICATION SHALL SUPPLY
13 WRITTEN NOTICE TO OCCUPANTS OF ALL 1- OR 2-FAMILY DWELLINGS, AND
14 TO OWNERS, OWNERS' AGENTS, OR OTHER PERSONS IN A POSITION OF
15 AUTHORITY FOR ALL OTHER TYPES OF PREMISES, THAT ARE ON ABUTTING
16 PROPERTY WITH A BOUNDARY THAT IS WITHIN 150 FEET OF THE SITE OF
17 THE COMMERCIAL LAWN APPLICATION. THE DIRECTOR SHALL SPECIFY THE
18 MANNER IN WHICH A PERSON MAKING A COMMERCIAL LAWN APPLICATION
19 SHALL SUPPLY THE WRITTEN NOTICE INCLUDING, BUT NOT LIMITED TO,
20 MAILING THE NOTICE, OR LEAVING THE NOTICE WITH A RESPONSIBLE
21 ADULT OR IN A CONSPICUOUS LOCATION ON THE ABUTTING PROPERTY. THE
22 DIRECTOR SHALL SPECIFY A MANNER IN WHICH A PERSON MAKING A COM-
23 Mercial LAWN APPLICATION MAY PROVIDE AN OPTION TO OCCUPANTS OF 1-
24 OR 2-FAMILY DWELLINGS TO DECLINE FURTHER NOTICES.

25 (3) THE OWNER OF A MULTIPLE FAMILY DWELLING OR THE OWNER'S
26 AGENT SHALL SUPPLY THE WRITTEN NOTICE UNDER SUBSECTION (2) TO THE
27 OCCUPANTS OF THE MULTIPLE FAMILY DWELLING IN A MANNER SPECIFIED

1 BY THE DIRECTOR. FOR ALL OTHER TYPES OF PREMISES, THE OWNER,
2 OWNER'S AGENT, OR OTHER PERSON IN A POSITION OF AUTHORITY SHALL
3 POST THE WRITTEN NOTICE UNDER SUBSECTION (2) IN A MANNER SPECI-
4 FIED BY THE DIRECTOR.

5 (4) THE DIRECTOR SHALL SPECIFY THE CONTENT AND FORM OF THE
6 WRITTEN NOTICE UNDER SUBSECTION (2). THE NOTICE SHALL INCLUDE AT
7 LEAST ALL OF THE FOLLOWING:

8 (A) THE ADDRESS WHERE THE PESTICIDE APPLICATION IS TO BE
9 MADE.

10 (B) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING THE
11 PESTICIDE APPLICATION.

12 (C) THE SPECIFIC DATE OF EACH PESTICIDE APPLICATION AND 2
13 ALTERNATIVE DATES TO THE PROPOSED DATE OF APPLICATION IF WEATHER
14 CONDITIONS PRECLUDE THE PESTICIDE APPLICATION ON THE PROPOSED
15 DATE.

16 (D) THE PRODUCT NAME OR NAMES AND THE EPA REGISTRATION
17 NUMBER OR NUMBERS OF THE PESTICIDE OR PESTICIDES TO BE APPLIED.

18 (E) A PROMINENT STATEMENT THAT READS SUBSTANTIALLY AS
19 FOLLOWS: "THIS NOTICE IS TO INFORM YOU OF A PENDING PESTICIDE
20 APPLICATION TO NEIGHBORING PROPERTY. YOU MAY WISH TO TAKE PRE-
21 CAUTIONS TO MINIMIZE PESTICIDE EXPOSURE TO YOURSELF, FAMILY MEM-
22 BERS, PETS, OR FAMILY POSSESSIONS. FURTHER INFORMATION ABOUT THE
23 PRODUCT OR PRODUCTS BEING APPLIED, INCLUDING ANY WARNINGS THAT
24 APPEAR ON THE LABELS OF SUCH PESTICIDE OR PESTICIDES THAT ARE
25 PERTINENT TO THE PROTECTION OF HUMANS, ANIMALS, OR THE ENVIRON-
26 MENT, CAN BE OBTAINED BY CALLING THE NATIONAL PESTICIDE
27 INFORMATION CENTER AT 1-800-858-7378."

1 (5) SUBSECTIONS (2) AND (3) DO NOT APPLY TO ANY OF THE
2 FOLLOWING:

3 (A) THE APPLICATION OF ANTIMICROBIAL PESTICIDES AND ANTIMI-
4 CROBIAL PRODUCTS AS DEFINED IN SECTIONS 2(mm) AND 19(h)(2) OF THE
5 FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, CHAPTER 125,
6 86 STAT. 973, 7 U.S.C. 136 AND 136q.

7 (B) THE USE OF AN AEROSOL PRODUCT WITH A DIRECTED SPRAY, IN
8 CONTAINERS OF 18 FLUID OUNCES OR LESS, WHEN USED TO PROTECT INDIV-
9 IDUALS FROM AN IMMINENT THREAT FROM STINGING AND BITING INSECTS,
10 INCLUDING VENOMOUS SPIDERS, BEES, WASPS, AND HORNETS. THIS SUB-
11 DIVISION DOES NOT EXEMPT FROM NOTIFICATION THE USE OF ANY FOGGER
12 PRODUCT OR AEROSOL PRODUCT THAT DISCHARGES TO A WIDE AREA.

13 (C) THE USE OF NONVOLATILE INSECTICIDES OR RODENTICIDES IN A
14 TAMPER-RESISTENT BAIT STATION OR IN AREAS INACCESSIBLE TO
15 CHILDREN.

16 (D) THE APPLICATION OF A PESTICIDE CLASSIFIED BY THE EPA AS
17 AN EXEMPT MATERIAL UNDER 40 C.F.R. 152.25.

18 (E) THE APPLICATION OF BORIC ACID AND DISODIUM OCTABORATE
19 TETRAHYDRATE.

20 (F) THE APPLICATION OF HORTICULTURAL SOAP AND OILS THAT DO
21 NOT CONTAIN SYNTHETIC PESTICIDES OR SYNERGISTS.

22 (G) THE APPLICATION OF A PESTICIDE BY DIRECT INJECTION INTO
23 A PLANT OR THE GROUND.

24 (H) THE APPLICATION OF A PESTICIDE TO THE GROUND OR TURF OF
25 A CEMETERY.

26 (I) AN EMERGENCY PESTICIDE APPLICATION WHEN NECESSARY TO
27 PROTECT AGAINST AN IMMINENT THREAT TO HUMAN HEALTH. HOWEVER,

1 BEFORE MAKING AN EMERGENCY PESTICIDE APPLICATION, A PERSON SHALL
2 MAKE A GOOD FAITH EFFORT TO SUPPLY THE WRITTEN NOTICE UNDER
3 SUBSECTION (2). UPON MAKING AN EMERGENCY PESTICIDE APPLICATION,
4 A PERSON SHALL NOTIFY THE DIRECTOR, USING A FORM DEVELOPED BY THE
5 DIRECTOR FOR SUCH PURPOSES. THE NOTICE SHALL INCLUDE AT LEAST
6 ALL OF THE FOLLOWING:

7 (i) THE ADDRESS WHERE THE APPLICATION WAS MADE.

8 (ii) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING THE
9 PESTICIDE APPLICATION.

10 (iii) THE DATE OF THE PESTICIDE APPLICATION.

11 (iv) THE PRODUCT NAME AND EPA REGISTRATION NUMBER OF THE
12 PESTICIDE OR PESTICIDES APPLIED.

13 (v) THE REASON FOR THE PESTICIDE APPLICATION.

14 (6) THE DIRECTOR SHALL REVIEW ANY EMERGENCY FORM SUBMITTED
15 UNDER SUBSECTION (5)(I) TO ENSURE THAT THE CIRCUMSTANCE DID WAR-
16 RANT THE EMERGENCY PESTICIDE APPLICATION. THE FORMS SHALL BE
17 KEPT ON FILE AT THE DEPARTMENT FOR 3 YEARS FROM THE DATE OF THE
18 PESTICIDE APPLICATION AND SHALL BE MADE AVAILABLE TO ANY PERSON
19 UPON REQUEST.

20 (7) A PERSON PERFORMING A NONCOMMERCIAL LAWN APPLICATION
21 TREATING AN AREA MORE THAN 100 SQUARE FEET OR PERFORMING A COM-
22 MERCIAL LAWN APPLICATION SHALL PLACE MARKERS WITHIN OR ALONG THE
23 PERIMETER OF THE AREA WHERE PESTICIDES WILL BE APPLIED. MARKERS
24 SHALL BE PLACED SO AS TO BE CLEARLY VISIBLE TO PERSONS IMMEDI-
25 ATELY OUTSIDE THE PERIMETER. THE MARKERS SHALL BE POSTED AT
26 LEAST 12 INCHES ABOVE THE GROUND AND SHALL BE AT LEAST 4 INCHES
27 BY 5 INCHES IN SIZE. THE MARKERS SHALL BE PLACED BEFORE THE LAWN

1 APPLICATION ON THE DAY OF THE LAWN APPLICATION AND SHALL INSTRUCT
2 PERSONS NOT TO ENTER THE AREA WHERE PESTICIDES WERE APPLIED AND
3 NOT TO REMOVE THE MARKERS, FOR A PERIOD OF AT LEAST 24 HOURS.
4 THE INSTRUCTION SHALL BE PRINTED BOLDLY IN LETTERS AT LEAST 3/8
5 OF AN INCH IN HEIGHT.

6 SEC. 8315B. (1) THE DIRECTOR SHALL ESTABLISH UNIFORM STAN-
7 DARDS FOR A CONSUMER PESTICIDE USE INFORMATION SIGN PROVIDED FOR
8 UNDER SECTION 8315A(1) WHICH SHALL BE PLACED IN RETAIL ESTABLISH-
9 MENTS THAT SELL GENERAL USE PESTICIDES FOR LAWN APPLICATION.
10 THIS SIGN SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

11 (A) A WARNING NOTICE DIRECTING CONSUMERS TO FOLLOW DIREC-
12 TIONS ON LABELS.

13 (B) A PROVISION TO INFORM CONSUMERS OF THE POSTING REQUIRE-
14 MENTS SET FORTH IN SECTION 8315A(7).

15 (C) A RECOMMENDATION THAT THE CONSUMER NOTIFY NEIGHBORS
16 BEFORE THE APPLICATION OF PESTICIDES SO THAT SUCH NEIGHBORS MAY
17 TAKE PRECAUTIONS TO AVOID PESTICIDE EXPOSURE.

18 (2) THE DIRECTOR SHALL PREPARE AND PUBLISH, IN CONSULTATION
19 WITH THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH, EDUCA-
20 TIONAL MATERIALS EXPLAINING THE REQUIREMENTS OF SECTIONS 8315A
21 AND 8316A AND THE HUMAN AND ENVIRONMENTAL HEALTH EFFECTS OF LAWN
22 CARE PESTICIDES.

23 (3) THE DIRECTOR MAY SPECIFY PROCEDURES, NOT INCONSISTENT
24 WITH ANY OTHER PROVISIONS OF LAW, FOR THE DEPARTMENT'S INVESTIGA-
25 TION AND PROCESSING OF ALLEGED VIOLATIONS OF SECTION 8315A(7)
26 THAT PERTAIN TO PERSONS PERFORMING NONCOMMERCIAL LAWN
27 APPLICATIONS. THE UNIFORM PROCEDURES MAY REQUIRE COMPLAINTS TO

1 BE IN THE FORM OF A SWORN STATEMENT CONTAINING THE FACTS UPON
2 WHICH AN ALLEGED VIOLATION IS BASED AND MAY PROVIDE THAT THE
3 DEPARTMENT IS NOT REQUIRED TO PERFORM ANY TESTING OR SAMPLING IN
4 RELATION TO THE INVESTIGATION OF ANY SUCH ALLEGED VIOLATIONS.

5 Sec. 8316. ~~-(1) At the beginning of each school year,~~
6 ~~school administrators shall notify parents and guardians of chil-~~
7 ~~dren attending that school of the right to be informed prior to~~
8 ~~any application of a pesticide at that school.~~

9 ~~-(2) The notice described in subsection (1) shall contain~~
10 ~~information, obtained from the person applying the pesticide,~~
11 ~~which includes a statement that a pesticide will be applied, the~~
12 ~~approximate location of the application, and the date of the~~
13 ~~application.~~

14 (1) EACH SCHOOL SHALL ESTABLISH A PESTICIDE NOTIFICATION
15 PROCEDURE TO PROVIDE INFORMATION ON PESTICIDE APPLICATIONS AT
16 SCHOOL FACILITIES. A SCHOOL SHALL PROVIDE WRITTEN NOTIFICATION
17 OF PESTICIDE APPLICATIONS AT ANY SCHOOL FACILITY TO STAFF, PAR-
18 ENTS, AND LEGAL GUARDIANS AS REQUIRED IN THIS SECTION. ANY NOTI-
19 FICATION REQUIRED BY THIS SECTION SHALL BE IN WRITING PROVIDED
20 DIRECTLY TO THE STUDENT OR STAFF, DELIVERED TO A RECEPTACLE DES-
21 IGNATED FOR THAT STUDENT OR STAFF, MAILED TO THE STUDENT'S OR
22 STAFF'S LAST KNOWN ADDRESS, OR DELIVERED BY ANY OTHER REASONABLE
23 METHODS AUTHORIZED BY THE DIRECTOR.

24 (2) A SCHOOL SHALL PROVIDE NOTIFICATION UNDER SUBSECTION (1)
25 TO ALL STAFF, PARENTS, AND LEGAL GUARDIANS AT THE BEGINNING OF
26 EACH SCHOOL YEAR. HOWEVER, IF A CHILD ENROLLS AFTER THE
27 BEGINNING OF THE SCHOOL YEAR, NOTIFICATION SHALL BE PROVIDED

1 WITHIN 1 WEEK OF ENROLLMENT. THE NOTIFICATION PROVIDED AT THE
2 BEGINNING OF THE SCHOOL YEAR SHALL INCLUDE AT LEAST ALL OF THE
3 FOLLOWING INFORMATION:

4 (A) A STATEMENT THAT PESTICIDE PRODUCTS MAY BE USED PERIODI-
5 CALLY THROUGHOUT THE SCHOOL YEAR.

6 (B) A STATEMENT THAT SCHOOLS ARE REQUIRED TO MAINTAIN A LIST
7 OF STAFF, PARENTS, AND LEGAL GUARDIANS WHO WISH TO RECEIVE
8 48-HOUR PRIOR WRITTEN NOTIFICATION OF PESTICIDE APPLICATIONS AT
9 RELEVANT SCHOOL FACILITIES AND INSTRUCTIONS ON HOW TO REGISTER
10 WITH THE SCHOOL TO BE ON THE NOTIFICATION LIST.

11 (C) THE NAME OF A SCHOOL REPRESENTATIVE AND CONTACT NUMBER
12 TO OBTAIN FURTHER INFORMATION.

13 (3) WITHIN 10 DAYS OF THE END OF THE SCHOOL YEAR AND WITHIN
14 2 SCHOOL DAYS OF THE END OF WINTER VACATION AND SPRING VACATION,
15 THE SCHOOL SHALL PROVIDE TO ALL STAFF, PARENTS, AND LEGAL GUARDI-
16 ANS WRITTEN NOTIFICATION THAT INCLUDES AT LEAST ALL OF THE FOL-
17 LOWING INFORMATION:

18 (A) FOR EACH PESTICIDE APPLICATION WHICH REQUIRED PRIOR
19 NOTIFICATION AND EACH EMERGENCY PESTICIDE APPLICATION MADE AT
20 SCHOOL FACILITIES, DURING THE PERIOD OF TIME SINCE THE PREVIOUS
21 NOTICE, THE DATE, LOCATION, AND PRODUCT USED.

22 (B) A STATEMENT THAT SCHOOLS ARE REQUIRED TO MAINTAIN A LIST
23 OF STAFF, PARENTS, AND LEGAL GUARDIANS WHO WISH TO RECEIVE
24 48-HOUR PRIOR WRITTEN NOTIFICATION OF PESTICIDE APPLICATIONS AND
25 INSTRUCTIONS ON HOW TO REGISTER WITH THE SCHOOL TO BE ON THE LIST
26 FOR PRIOR NOTIFICATION.

1 (C) HOW TO OBTAIN FURTHER INFORMATION ABOUT THE PRODUCTS
2 BEING APPLIED, INCLUDING ANY WARNINGS THAT APPEAR ON THE LABEL OF
3 THE PESTICIDES THAT ARE PERTINENT TO THE PROTECTION OF HUMANS,
4 ANIMALS, OR THE ENVIRONMENT.

5 (D) THE NAME AND TELEPHONE NUMBER OF A SCHOOL REPRESENTATIVE
6 TO CONTACT FOR ADDITIONAL INFORMATION.

7 (4) EACH SCHOOL SHALL ESTABLISH AND MAINTAIN A LIST OF
8 STAFF, PARENTS, AND LEGAL GUARDIANS REQUESTING NOTIFICATION
9 48 HOURS IN ADVANCE OF PESTICIDE APPLICATIONS. A SCHOOL SHALL
10 ADD ANY STAFF, PARENT, OR LEGAL GUARDIAN TO THE NOTIFICATION LIST
11 UPON REQUEST.

12 (5) SUBJECT TO SUBSECTION (6), NOT LESS THAN 48 HOURS BEFORE
13 THE APPLICATION OF A PESTICIDE AT A SCHOOL FACILITY, A SCHOOL
14 SHALL PROVIDE TO INDIVIDUALS ON THE SCHOOL'S NOTIFICATION LIST
15 UNDER SUBSECTION (4) NOTIFICATION THAT INCLUDES AT LEAST ALL OF
16 THE FOLLOWING INFORMATION:

17 (A) THE SPECIFIC DATE AND LOCATION OF THE PESTICIDE
18 APPLICATION. IN CASE OF OUTDOOR PESTICIDE APPLICATIONS, THE
19 NOTICE MUST PROVIDE A SPECIFIC DATE, AND MAY INCLUDE
20 2 ALTERNATIVE DATES IN CASE THE APPLICATION CANNOT BE MADE
21 BECAUSE OF WEATHER CONDITIONS.

22 (B) THE PRODUCT NAME AND PESTICIDE REGISTRATION NUMBER
23 ASSIGNED BY THE EPA.

24 (C) A PROMINENT STATEMENT THAT READS SUBSTANTIALLY AS
25 FOLLOWS: "THIS NOTICE IS TO INFORM YOU OF A PENDING PESTICIDE
26 APPLICATION AT A SCHOOL FACILITY. YOU MAY WISH TO DISCUSS WITH
27 THE DESIGNATED SCHOOL REPRESENTATIVE WHAT PRECAUTIONS ARE BEING

1 TAKEN TO PROTECT CHILDREN AND STAFF FROM EXPOSURE TO THESE
2 PESTICIDES. FURTHER INFORMATION ABOUT THE PRODUCT(S) BEING
3 APPLIED, INCLUDING ANY WARNINGS THAT APPEAR ON THE LABEL OF THE
4 PESTICIDE(S) THAT ARE PERTINENT TO THE PROTECTION OF HUMANS, ANI-
5 MALS, OR THE ENVIRONMENT, CAN BE OBTAINED BY CALLING THE NATIONAL
6 PESTICIDE INFORMATION CENTER AT 1-800-858-7378."

7 (D) THE NAME AND TELEPHONE NUMBER OF A SCHOOL REPRESENTATIVE
8 TO CONTACT FOR ADDITIONAL INFORMATION.

9 (6) THE NOTIFICATION UNDER SUBSECTION (5) NEED ONLY BE PRO-
10 VIDED TO BOTH OF THE FOLLOWING:

11 (A) STAFF WHO REGULARLY WORK AT THE SCHOOL FACILITY THAT IS
12 THE SITE OF THE PESTICIDE APPLICATION.

13 (B) PARENTS OR LEGAL GUARDIANS OF CHILDREN WHO REGULARLY
14 RECEIVE INSTRUCTION OR HAVE SCHEDULED RECESS AT THAT SCHOOL
15 FACILITY.

16 (7) A PESTICIDE SHALL NOT BE APPLIED AT A SCHOOL FACILITY
17 DURING SCHOOL HOURS.

18 (8) THE FOLLOWING PESTICIDE APPLICATIONS ARE NOT SUBJECT TO
19 SUBSECTIONS (1) TO (7):

20 (A) THE APPLICATION OF ANTIMICROBIAL PESTICIDES AND ANTIMI-
21 CROBIAL PRODUCTS AS DEFINED IN SECTIONS 2(mm) AND 19(h)(2) OF THE
22 FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, CHAPTER 125,
23 86 STAT. 973, 7 U.S.C. 136 AND 136q.

24 (B) THE USE OF AN AEROSOL PRODUCT WITH A DIRECTED SPRAY, IN
25 CONTAINERS OF 18 FLUID OUNCES OR LESS, WHEN USED TO PROTECT INDI-
26 VIDUALS FROM AN IMMINENT THREAT FROM STINGING AND BITING INSECTS
27 INCLUDING VENOMOUS SPIDERS, BEES, WASPS, AND HORNETS. THIS

1 SUBDIVISION DOES NOT EXEMPT FROM NOTIFICATION THE USE OF ANY
2 FOGGER PRODUCT OR AEROSOL PRODUCT THAT DISCHARGES TO A WIDE
3 AREA.

4 (C) THE USE OF NONVOLATILE INSECTICIDES OR RODENTICIDES IN
5 TAMPER-RESISTANT BAIT STATIONS OR IN AREAS INACCESSIBLE TO
6 CHILDREN.

7 (D) SILICA GELS AND OTHER NONVOLATILE READY-TO-USE PASTE,
8 FOAM, OR GEL FORMULATIONS OF INSECTICIDES IN AREAS INACCESSIBLE
9 TO CHILDREN.

10 (E) APPLICATION OF A PESTICIDE CLASSIFIED BY THE EPA AS AN
11 EXEMPT MATERIAL UNDER 40 C.F.R. 152.25.

12 (F) THE APPLICATION OF BORIC ACID AND DISODIUM OCTABORATE
13 TETRAHYDRATE.

14 (G) THE APPLICATION OF A PESTICIDE WHICH THE EPA HAS DETER-
15 MINED SATISFIES ITS REDUCED RISK CRITERIA, INCLUDING A
16 BIOPESTICIDE.

17 (H) ANY PESTICIDE APPLICATION WHERE THE FACILITY REMAINS
18 UNOCCUPIED DURING AND FOR A CONTINUOUS 72-HOUR PERIOD FOLLOWING
19 THE APPLICATION OF THE PESTICIDE.

20 (I) ANY EMERGENCY PESTICIDE APPLICATION WHEN NECESSARY TO
21 PROTECT AGAINST AN IMMINENT THREAT TO HUMAN HEALTH. HOWEVER,
22 BEFORE MAKING AN EMERGENCY PESTICIDE APPLICATION, A PERSON SHALL
23 MAKE A GOOD FAITH EFFORT TO SUPPLY THE WRITTEN NOTICE REQUIRED
24 UNDER THIS SECTION. UPON MAKING AN EMERGENCY PESTICIDE APPLICA-
25 TION, A PERSON SHALL NOTIFY THE DIRECTOR, USING A FORM DEVELOPED
26 BY THE DIRECTOR FOR SUCH PURPOSES. THE NOTICE SHALL INCLUDE AT
27 LEAST ALL OF THE FOLLOWING:

1 (i) THE ADDRESS WHERE THE APPLICATION WAS MADE.

2 (ii) THE NAME AND TELEPHONE NUMBER OF THE PERSON MAKING THE
3 PESTICIDE APPLICATION.

4 (iii) THE DATE OF THE PESTICIDE APPLICATION.

5 (iv) THE PRODUCT NAME AND EPA REGISTRATION NUMBER OF THE
6 PESTICIDE OR PESTICIDES APPLIED.

7 (v) THE REASON FOR THE PESTICIDE APPLICATION.

8 (9) THE DIRECTOR SHALL REVIEW AN EMERGENCY FORM SUBMITTED
9 UNDER SUBSECTION (8)(I) TO ENSURE THAT THE CIRCUMSTANCE DID WAR-
10 RANT THE EMERGENCY PESTICIDE APPLICATION. THE FORMS SHALL BE
11 KEPT ON FILE AT THE DEPARTMENT FOR 3 YEARS FROM THE DATE OF THE
12 PESTICIDE APPLICATION AND SHALL BE MADE AVAILABLE TO ANY PERSON
13 UPON REQUEST.

14 (10) THE DIRECTOR SHALL ENSURE THE COMPLIANCE OF SCHOOLS
15 WITH THE REQUIREMENTS OF THIS SECTION, AND SHALL ESTABLISH A PRO-
16 CEDURE FOR PARENTS TO NOTIFY THE STATE OF ANY SCHOOL'S FAILURE TO
17 COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

18 SEC. 8316A. (1) NOT LESS THAN 48 HOURS BEFORE THE APPLICA-
19 TION OF A PESTICIDE AT A DAY CARE FACILITY, THE DAY CARE FACILITY
20 SHALL POST A NOTICE OF THE PESTICIDE APPLICATION IN A COMMON AREA
21 OF THE DAY CARE FACILITY THAT IS CONSPICUOUSLY VISIBLE TO PERSONS
22 DROPPING OFF OR PICKING UP CHILDREN FROM THE DAY CARE FACILITY.
23 THE NOTICE SHALL INCLUDE AT LEAST ALL OF THE FOLLOWING:

24 (A) THE LOCATION AND SPECIFIC DATE OF THE PESTICIDE APPLICA-
25 TION AT THE DAY CARE FACILITY. FOR AN OUTDOOR APPLICATION, THE
26 NOTICE MUST PROVIDE A SPECIFIC DATE AND MAY INCLUDE 2 ALTERNATIVE

1 DATES IF WEATHER CONDITIONS PRECLUDE THE PESTICIDE APPLICATION ON
2 THE PROPOSED DATE.

3 (B) THE PRODUCT NAME OR NAMES AND THE EPA REGISTRATION
4 NUMBER OR NUMBERS OF THE PESTICIDE OR PESTICIDES TO BE APPLIED.

5 (C) A PROMINENT STATEMENT THAT READS SUBSTANTIALLY AS
6 FOLLOWS: "THIS NOTICE IS TO INFORM YOU OF A PENDING PESTICIDE
7 APPLICATION AT THIS DAY CARE FACILITY. YOU MAY WISH TO DISCUSS
8 WITH A REPRESENTATIVE OF THE DAY CARE FACILITY WHAT PRECAUTIONS
9 ARE BEING TAKEN TO PROTECT YOUR CHILD FROM EXPOSURE TO THESE
10 PESTICIDES. FURTHER INFORMATION ABOUT THE PRODUCT OR PRODUCTS
11 BEING APPLIED, INCLUDING ANY WARNINGS THAT APPEAR ON THE LABEL OF
12 THE PESTICIDE OR PESTICIDES THAT ARE PERTINENT TO THE PROTECTION
13 OF HUMANS, ANIMALS, OR THE ENVIRONMENT, CAN BE OBTAINED BY CALL-
14 ING THE NATIONAL PESTICIDE INFORMATION CENTER AT
15 1-800-858-7378."

16 (D) THE NAME AND TELEPHONE NUMBER OF A REPRESENTATIVE OF THE
17 DAY CARE FACILITY TO CONTACT FOR ADDITIONAL INFORMATION.

18 (2) A PESTICIDE SHALL NOT BE APPLIED AT A DAY CARE FACILITY
19 DURING OPERATING HOURS.

20 (3) THE PESTICIDE APPLICATIONS DESCRIBED IN SECTION 8316(7)
21 ARE NOT SUBJECT TO THE REQUIREMENTS OF SUBSECTION (1) OR (2).

22 (4) A PERSON, OTHER THAN A DAY CARE FACILITY, WHO CONTRACTS
23 FOR THE APPLICATION OF A PESTICIDE AT A DAY CARE FACILITY SHALL
24 PROVIDE TO THE DAY CARE FACILITY OPERATOR INFORMATION REQUIRED TO
25 BE CONTAINED IN THE POSTING UNDER SUBSECTION (1) AT LEAST
26 48 HOURS BEFORE THE APPLICATION.

1 SEC. 8316B. A PERSON SHALL NOT APPLY A PESTICIDE, OTHER
2 THAN A SANITIZER, GERMICIDE, DISINFECTANT, OR ANTI-MICROBIAL
3 AGENT, IN A SCHOOL BUILDING, PUBLIC BUILDING, HEALTH CARE FACILI-
4 TY, OR CHILD CARE CENTER UNLESS A VERIFIABLE INTEGRATED PEST MAN-
5 AGEMENT PROGRAM IS IN PLACE FOR THE BUILDING. THE INTEGRATED
6 PEST MANAGEMENT PROGRAM SHALL INCLUDE ALL OF THE FOLLOWING
7 ELEMENTS:

8 (A) THE FOLLOWING INTEGRATED PEST MANAGEMENT PRACTICES AND
9 PRINCIPLES:

10 (i) SITE EVALUATION, INCLUDING SITE DESCRIPTION, INSPECTION,
11 AND MONITORING.

12 (ii) CONSIDERATION OF THE RELATIONSHIP BETWEEN PEST BIOLOGY
13 AND PEST MANAGEMENT METHODS.

14 (iii) CONSIDERATION OF ALL AVAILABLE PEST MANAGEMENT
15 METHODS, INCLUDING POPULATION REDUCTION TECHNIQUES, SUCH AS
16 MECHANICAL, BIOLOGICAL, AND CHEMICAL TECHNIQUES AND PEST PREVEN-
17 TION TECHNIQUES, SUCH AS HABITAT MODIFICATION.

18 (iv) PEST CONTROL METHOD SELECTION, INCLUDING CONSIDERATION
19 OF THE IMPACT ON HUMAN HEALTH AND THE ENVIRONMENT.

20 (v) CONTINUAL EVALUATION OF THE INTEGRATED PEST MANAGEMENT
21 PROGRAM TO DETERMINE THE PROGRAM'S EFFECTIVENESS AND THE NEED FOR
22 PROGRAM MODIFICATION.

23 (B) RECORDS TO BE KEPT AND MAINTAINED BY THE APPLICATOR,
24 INCLUDING ALL OF THE FOLLOWING:

25 (i) THE SITE ADDRESS.

26 (ii) THE DATE OF SERVICE.

1 (iii) THE TARGET PEST OR PESTS.

2 (iv) THE INSPECTION REPORT, INCLUDING THE NUMBER OF PESTS
3 FOUND OR REPORTED, AND THE CONDITIONS CONDUCIVE TO PEST
4 INFESTATION.

5 (v) THE PEST MANAGEMENT RECOMMENDATIONS MADE BY THE APPLICA-
6 TOR, SUCH AS STRUCTURAL OR HABITAT MODIFICATION.

7 (vi) THE STRUCTURAL OR HABITAT MODIFICATION OR OTHER MEA-
8 SURES THAT WERE INITIATED AS A PART OF THE PEST MANAGEMENT
9 PROGRAM.

10 (vii) THE NAME OF THE PESTICIDE OR PESTICIDES USED.

11 (viii) THE QUANTITY OF PESTICIDE OR PESTICIDES USED.

12 (ix) THE LOCATION OF THE AREA OR ROOM OR ROOMS WHERE PESTI-
13 CIDES WERE APPLIED.

14 (x) THE NAME OF THE APPLICATOR.

15 (xi) THE NAME OF THE PEST CONTROL FIRM, IF A FIRM IS
16 EMPLOYED, AND THE EMERGENCY TELEPHONE NUMBER.

17 (C) WITH RESPECT TO A COMMERCIAL APPLICATOR, PROVISION OF
18 THE FOLLOWING INFORMATION TO THE BUILDING MANAGER:

19 (i) THE INTEGRATED PEST MANAGEMENT PROGRAM AND INITIAL SERV-
20 ICE INSPECTION RECORD, WHICH SHALL BE PROVIDED AT THE TIME OF
21 INITIAL SERVICE.

22 (ii) A RECORD THAT INCLUDES THE INFORMATION SPECIFIED IN
23 SUBDIVISION (B), WHICH SHALL BE PROVIDED AT THE COMPLETION OF
24 EACH SERVICE CALL.

25 (iii) THE ACCEPTANCE OF RESPONSIBILITY BY THE BUILDING MAN-
26 AGER TO POST ANY SIGNS AS REQUIRED UNDER RULES PROMULGATED UNDER
27 SECTION 8325.

1 SEC. 8321A. THE DEPARTMENT SHALL MAINTAIN A DATABASE OF
2 HUMAN PESTICIDE POISONINGS THAT OCCUR IN THIS STATE AFTER THE
3 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.
4 THE DATA SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALL OF THE
5 FOLLOWING:

6 (A) HOW THE POISONING OCCURRED.

7 (B) THE PESTICIDE THAT CAUSED THE POISONING.

8 (C) THE NUMBER AND AGE OF THE PEOPLE AFFECTED.

9 (D) THE ADVERSE HEALTH EFFECTS SUFFERED BY THE PEOPLE
10 AFFECTED.

11 (E) ANY ENFORCEMENT ACTION TAKEN.

12 Sec. 8333. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
13 SECTION, A PERSON WHO VIOLATES SECTION 8315A(1) SHALL BE ISSUED A
14 WARNING FOR THE FIRST VIOLATION AND SHALL BE PROVIDED 7 DAYS TO
15 CORRECT THE VIOLATION. A PERSON WHO VIOLATES SECTION 8315A(1) A
16 SECOND OR SUBSEQUENT TIME IS RESPONSIBLE FOR A STATE CIVIL
17 INFRACTION AND MAY BE FINED NOT MORE THAN \$250.00 FOR EACH SUCH
18 VIOLATION.

19 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
20 PERSON WHO VIOLATES SECTION 8315A(3) OR A PERSON WHO VIOLATES
21 SECTION 8315A(7) SHALL, FOR A FIRST SUCH VIOLATION, IN LIEU OF A
22 FINE, BE ISSUED A WRITTEN WARNING AND SHALL ALSO BE ISSUED EDUCA-
23 TIONAL MATERIALS PURSUANT TO SECTION 8315B(2). A PERSON WHO COM-
24 MITS A SECOND VIOLATION OF SECTION 8315A(3) OR A SECOND VIOLATION
25 OF SECTION 8315A(7) IS RESPONSIBLE FOR A STATE CIVIL INFRACTION
26 AND MAY BE FINED NOT MORE THAN \$100.00. A PERSON WHO COMMITS A
27 THIRD OR SUBSEQUENT VIOLATION OF SECTION 8315A(3) OR A THIRD OR

1 SUBSEQUENT VIOLATION OF SECTION 8315A(7) IS RESPONSIBLE FOR A
2 STATE CIVIL INFRACTION AND MAY BE FINED NOT MORE THAN \$250.00.

3 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
4 PERSON WHO VIOLATES SECTION 8316A(4) SHALL, FOR A FIRST SUCH VIO-
5 LATION, IN LIEU OF A FINE, BE ISSUED A WRITTEN WARNING AND SHALL
6 ALSO BE ISSUED EDUCATIONAL MATERIALS PURSUANT TO
7 SECTION 8315B(2). THE DIRECTOR, UPON FINDING AFTER NOTICE AND AN
8 OPPORTUNITY FOR A HEARING, THAT SUCH A PERSON HAS COMMITTED A
9 SECOND OR SUBSEQUENT SUCH VIOLATION, MAY IMPOSE AN ADMINISTRATIVE
10 FINE OF NOT MORE THAN \$100.00 FOR A SECOND VIOLATION OR NOT MORE
11 THAN \$250.00 FOR A SUBSEQUENT VIOLATION.

12 (4) ~~-(1)-~~ A person who violates this part is subject to the
13 penalties and remedies provided in this part regardless of
14 whether he or she acted alone or through an employee or agent.

15 (5) ~~-(2)-~~ The director, upon finding after notice and an
16 opportunity for a hearing that a person has violated or attempted
17 to violate any provision of this part EXCEPT SECTION 8311(2),
18 8312, 8315A(1), 8315A(3), 8315A(7), 8316, OR 8316A(4), may impose
19 an administrative fine of not more than \$1,000.00 for each viola-
20 tion of this part.

21 (6) ~~-(3)-~~ If the director finds that a violation or
22 attempted violation occurred despite the exercise of due care or
23 did not result in significant harm to human health or the envi-
24 ronment, the director may issue a warning instead of imposing an
25 administrative fine.

26 (7) ~~-(4)-~~ The director shall advise the attorney general of
27 the failure of a person to pay an administrative fine imposed

1 under this section. The attorney general may bring an action in
2 a court of competent jurisdiction for the failure to pay an
3 administrative fine imposed under this section.

4 (8) ~~-(5)-~~ A person who violates this part or attempts to
5 violate this part is guilty of a misdemeanor punishable by
6 imprisonment for not more than 90 days or a fine of not more than
7 \$5,000.00, or both, for each offense.

8 (9) ~~-(6)-~~ The director may bring an action to enjoin a vio-
9 lation of this part or an attempted violation of this part in a
10 court of competent jurisdiction of the county in which the viola-
11 tion occurs or is about to occur.

12 (10) ~~-(7)-~~ The attorney general may file a civil action in
13 which the court may impose on any person who violates this part
14 or attempts to violate this part a civil fine of not more than
15 \$5,000.00 for each violation or attempted violation. In addi-
16 tion, the attorney general may bring an action in circuit court
17 to recover the reasonable costs of the investigation from any
18 person who violated this part or attempted to violate this part.
19 Money recovered under this subsection shall be forwarded to the
20 state treasurer for deposit into the pesticide control fund cre-
21 ated in section 8318.

22 (11) ~~-(8)-~~ In defense of an action filed under this section,
23 in addition to any other lawful defense, a person may present
24 evidence as an affirmative defense that, at the time of the
25 alleged violation of this part or attempted violation of this
26 part, he or she was in compliance with label directions and with

1 this part and rules promulgated under this part at the time of
2 the alleged violation.

3 (12) ~~-(9)-~~ A civil cause of action does not arise for inju-
4 ries to any person or property if a private agricultural applica-
5 tor, or a registered applicator who stores, handles, or applies
6 pesticides only for a private agricultural purpose, was not
7 grossly negligent and stored, handled, or applied pesticides in
8 compliance with this part, rules promulgated under this part, and
9 the pesticide labeling.

10 (13) ~~-(10)-~~ Applicable provisions of the revised judicature
11 act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, apply to civil
12 actions filed pursuant to this part.